



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Lowell Saltonstall Building,

100 Cambridge Street, Boston 02204

May 4, 1983

You inquire about the application of the sales tax to purchases by ("Company"). The Company is a small business operated by you and your wife in your home. Its activities fall into the following three categories:

- (1) The production of documentary films to be sold.
- (2) The production of slide shows. Sometimes the Company shows the slides itself; sometimes it sells them through a distributor.
- (3) The taking of photographs and the writing of copy for books on the visual arts. The Company contracts with publishers to provide copy in manuscript form and photographs to appear in the books.

The Company itself sometimes develops the documentary films, slides and photographs it sells; sometimes it pays others to develop them.

General Laws Chapter 64H, Section 2 imposes an excise on sales at retail of tangible personal property in Massachusetts. "Sale" includes the processing of tangible personal property for a consideration for consumers who furnish the materials used in the processing (G.L. c. 64H, s. 1(12)(b)). "Sale at retail" does not include personal service transactions that involve no sale of tangible personal property or involve sales as inconsequential elements for which no separate charges are made (G.L. c. 64H, s. 1(13)(c)).

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Sales for resale in the regular course of business, and sales of materials that become an ingredient or component part of tangible personal property to be sold, are not subject to the sales tax (G.L. c. 64H, ss. 1(13), 6(r)).

Chapter 64H, Section 6(r) exempts from the sales tax sales of materials, tools and fuel consumed and used directly and exclusively in an industrial plant in the actual manufacture of tangible personal property to be sold. Section 6(s) exempts sales of machinery and replacement parts used directly and exclusively in an industrial plant in the actual manufacture, conversion or processing of tangible personal property to be sold. For purposes of both provisions, "industrial plant" is defined as "a factory at a fixed location primarily engaged in the manufacture, conversion or processing of tangible personal property to be sold in the regular course of business."

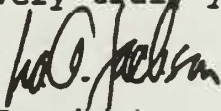
Based on the foregoing, it is ruled that:

1. Of the items that the Company purchases for use in producing documentary films, slides and photographs for books, only those that are purchased for resale in the regular course of business or become an ingredient or component part of films, slides or photographic prints to be sold are exempt from the sales tax. For example, the Company's purchase of photographic paper for prints to be sold, and the charges imposed on it for developing motion picture film, prints, or slides to be sold are exempt from the sales tax. The Company's purchase of developing chemicals and film that does not become part of items it sells are subject to the tax.

2. The Company's purchases of items that become an ingredient or component part of slides that it will show itself, and developing charges for such slides, are subject to the sales tax.

3. The Company is the consumer of the paper and other items it uses in the preparation of copy for books. It must pay a sales tax on its purchase of such items. It need not collect and pay over tax on its transfer of manuscripts to publishers.

Very truly yours,


Commissioner of Revenue

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